

Introduced by Senator Alquist

February 15, 2006

An act to add Section 6377 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

SB 1291, as introduced, Alquist. Sales and use taxes: exemption: manufacturing and research activities.

The Sales and Use Tax Law imposes a tax on the gross receipts from the sale in this state of, or the storage, use, or other consumption in this state of, tangible personal property, and provides various exemptions from the taxes imposed by that law.

This bill would exempt from those taxes the gross receipts from the sale of, and the storage, use, or other consumption of, tangible personal property, as defined, purchased for use by a qualified person, as defined, in manufacturing, processing, or fabricating of property, or for use in research and development activities and introduced into the process, as specified.

This bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 6377 is added to the Revenue and
- 2 Taxation Code, to read:
- 3 6377. (a) For calendar years beginning on or after January 1,
- 4 2006, there are exempted from the taxes imposed by this part the
- 5 gross receipts from the sale of, and the storage, use, or other

1 consumption in this state of, by a qualified person any of the
2 following:

3 (1) Tangible personal property that will become an ingredient
4 or component part of tangible personal property manufactured,
5 processed, fabricated, or used in research and development
6 activities.

7 (2) Tangible personal property directly used or consumed in or
8 during the actual manufacturing, processing, fabrication, or
9 research and development of tangible personal property if the use
10 or consumption of the property is necessary or essential to the
11 manufacturing, processing, fabrication operation, or research and
12 development, and directly makes or causes a chemical or
13 physical change to either of the following:

14 (A) The product being manufactured, processed, fabricated, or
15 used in a research and development activity.

16 (B) Any intermediate or preliminary product that will become
17 an ingredient or component part of the product being
18 manufactured, processed, fabricated, or used in a research and
19 development activity.

20 (3) Actuators, steam production equipment and its fuel,
21 in-process flow through tanks, cooling towers, generators, heat
22 exchangers, transformers and the switches, breakers, capacitor
23 banks, regulators, relays, reclosers, fuses, interruptors, reactors,
24 arrestors, resistors, insulators, instrument transformers, and
25 telemetry units that are related to the transformers, electronic
26 control room equipment, computerized control units, pumps,
27 compressors, and hydraulic units that are used to power, supply
28 support, or control equipment that qualifies for exemption under
29 paragraph (2) or paragraph (6) of this subdivision, or to generate
30 electricity, chilled water, or steam for ultimate sale.

31 (4) Transformers located at an electric generating facility that
32 increase the voltage of electricity generated for ultimate sale, the
33 electrical cable that carries the electricity from the electric
34 generating equipment to the step-up transformers, and the
35 switches, breakers, capacitor banks, regulators, relays, reclosers,
36 fuses, interruptors, reactors, arrestors, resistors, insulators,
37 instrument transformers, and telemetry units that are related to
38 the step-up transformers.

39 (5) Transformers that decrease the voltage of electricity
40 generated for ultimate sale and the switches, breakers, capacitor

1 banks, regulators, relays, reclosers, fuses, interruptors, reactors,
2 arrestors, resistors, insulators, instrument transformers, and
3 telemetry units that are related to the step-down transformers.

4 (6) Tangible personal property used or consumed in
5 manufacturing, processing, fabrication, or research and
6 development of tangible personal property if the use or
7 consumption of the property is necessary and essential to a
8 pollution control process.

9 (7) Lubricants, chemicals, chemical compounds, gases, or
10 liquids that are used or consumed during manufacturing,
11 processing, fabrication, or research and development of tangible
12 personal property if their use or consumption is necessary and
13 essential to prevent the decline, failure, lapse, or deterioration of
14 equipment exempted by this section.

15 (8) Gases used on the premises of a manufacturing plant or
16 facility used in performing research and development activities to
17 prevent contamination of raw material or product, or to prevent a
18 fire, explosion, or other hazardous or environmentally damaging
19 situation at any stage in the manufacturing or research and
20 development process, or in loading or storage of the product or
21 raw material on the premises.

22 (9) Tangible personal property used or consumed during
23 manufacturing, processing, fabrication, or research and
24 development of tangible personal property if the use or
25 consumption of the property is necessary and essential to a
26 quality control process that tests tangible personal property that is
27 being manufactured, processed, fabricated, or used in performing
28 research and development activities.

29 (10) Tangible personal property used or consumed in
30 manufacturing, processing, fabrication, or research and
31 development of tangible personal property if the use or
32 consumption of the property is necessary and essential to comply
33 with federal, state, or local laws, or rules and regulations that
34 establish requirements related to public health.

35 (11) Tangible personal property specifically installed to do any
36 of the following:

37 (A) Reduce water use and wastewater flow volumes from the
38 manufacturing, processing, fabrication, research and
39 development or repair operation.

1 (B) Reuse and recycle wastewater streams generated within
2 the manufacturing, processing, fabrication, research and
3 development or repair operation.

4 (C) Treat wastewater from another industrial or municipal
5 source for the purpose of replacing existing freshwater sources in
6 the manufacturing, processing, fabrication, research and
7 development or repair operation.

8 (12) Chemicals, catalysts, and other materials that are used
9 during a manufacturing, processing, fabrication, or research and
10 development operation to produce or induce a chemical or
11 physical change, to remove impurities, or to make the product
12 more marketable.

13 (13) Semiconductor, pharmaceutical or biotechnology
14 fabrication, or research and development clean rooms and
15 equipment.

16 (b) For purposes of this section, all of the following apply:

17 (1) “Qualified person” means a manufacturer or an entity
18 performing research and development.

19 (2) “Fabricating” means to make, build, create, produce, or
20 assemble components or property to work in a new or different
21 manner.

22 (3) “Manufacturing” means the activity of converting or
23 conditioning property by changing the form, composition,
24 quality, or character of the property for ultimate sale at retail or
25 use in the manufacturing of a product to be ultimately sold at
26 retail. Manufacturing includes any improvements to tangible
27 personal property that result in a greater service life or greater
28 functionality than that of the original property.

29 (4) “Process” means the period beginning at the point at which
30 any raw materials are received by the qualified taxpayer and
31 introduced into the manufacturing, processing, refining,
32 fabricating, or recycling activity of the qualified taxpayer and
33 ending at the point at which the manufacturing, processing,
34 refining, fabricating, or recycling activity of the qualified
35 taxpayer has altered tangible personal property to its completed
36 form if required.

37 (5) “Processing” means the physical application of the
38 materials and labor necessary to modify or change the
39 characteristics of property.

1 (6) “Research and development” means those activities that
2 are described in Section 174 of the Internal Revenue Code or in
3 any regulations thereunder.

4 (c) For purposes of this section, all of the following apply:

5 (1) The production of a publication for the dissemination of
6 news of a general character and of a general interest that is
7 printed on newsprint and distributed to the general public at a
8 daily, weekly, or other short intervals is considered
9 manufacturing.

10 (2) The manufacturing or research and development of
11 computer software begins with the design and writing of the code
12 or program for the software and includes the testing or
13 demonstration of the software.

14 (3) “Semiconductor, pharmaceutical or biotechnology
15 fabrication clean rooms and equipment” means all tangible
16 personal property, without regard to whether the property is
17 affixed to or incorporated into realty, used in connection with the
18 manufacturing, processing, fabrication, or research and
19 development in a clean room environment of a semiconductor,
20 pharmaceutical, or biotechnology product, without regard to
21 whether the property is actually contained in the clean room
22 environment. The term includes integrated systems, fixtures, and
23 piping, all property necessary or adapted to reduce contamination
24 or to control airflow, temperature, humidity, chemical purity, or
25 other environmental conditions or manufacturing or research and
26 development tolerances, and production equipment and
27 machinery. The term does not include the building or a
28 permanent, nonremovable component of the building, that houses
29 the clean room environment. The term includes moveable clean
30 room partitions and clean room lighting.

31 (d) No exemption shall be allowed under this section unless
32 the purchaser furnishes the retailer with an exemption certificate,
33 completed in accordance with any instructions or regulations as
34 the board may prescribe, and the retailer subsequently furnishes
35 the board with a copy of the exemption certificate. The
36 exemption certificate shall contain the sales price of the
37 machinery or equipment that is exempt pursuant to subdivision
38 (a).

39 (e) Notwithstanding any provision of the Bradley-Burns
40 Uniform Local Sales and Use Tax Law (Part 1.5 (commencing

1 with Section 7200)) or the Transactions and Use Tax Law (Part
2 1.6 (commencing with Section 7251)), the exemption established
3 by this section shall not apply with respect to any tax levied by a
4 county, city, or district pursuant to, or in accordance with, either
5 of those laws.

6 (f) (1) Notwithstanding subdivision (a), the exemption
7 provided by this section shall not apply to any sale or use of
8 property which, within one year from the date of purchase, is
9 either removed from California or converted from an exempt use
10 under subdivision (a) to some other use not qualifying for the
11 exemption.

12 (2) Notwithstanding subdivision (a), the exemption established
13 by this section shall not apply with respect to any tax levied
14 pursuant to Sections 6051.2 and 6201.2, or pursuant to Section
15 35 of Article XIII of the California Constitution.

16 (g) If a purchaser certifies in writing to the seller that the
17 property purchased without payment of the tax will be used in a
18 manner entitling the seller to regard the gross receipts from the
19 sale as exempt from the sales tax, and within one year from the
20 date of purchase, the purchaser (1) removes that property outside
21 California, (2) converts that property for use in a manner not
22 qualifying for the exemption, or (3) uses that property in a
23 manner not qualifying for the exemption, the purchaser shall be
24 liable for payment of sales tax, with applicable interest, as if the
25 purchaser were a retailer making a retail sale of the property at
26 the time the property is so removed, converted, or used, and the
27 sales price of the property to the purchaser shall be deemed the
28 gross receipts from that retail sale.

29 (h) This section applies to leases of tangible personal property
30 classified as “continuing sales” and “continuing purchases” in
31 accordance with Sections 6006.1 and 6010.1. The exemption
32 established by this section shall apply to the rentals payable
33 pursuant to such a lease, provided the lessee is a qualified person
34 and the property is used in an activity described in subdivision
35 (a). Rentals that meet the foregoing requirements are eligible for
36 the exemption for a period of six years from the date of
37 commencement of the lease. At the close of the six-year period
38 from the date of commencement of the lease, lease receipts are
39 subject to tax without exemption.

1 SEC. 2. This act provides for a tax levy within the meaning of
2 Article IV of the Constitution and shall go into immediate effect.

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